

By the Committees on Law Enforcement & Public Safety,  
Agriculture and Representatives Spratt, Futch, Minton,  
Bronson, Putnam, Harrington, Smith, Boyd, Wiles and Greene

1                                   A bill to be entitled  
2           An act relating to the Department of  
3           Agriculture and Consumer Services; amending s.  
4           581.011, F.S.; revising definition of the term  
5           "noxious weed"; amending s. 581.182, F.S.;  
6           renaming an advisory committee; repealing s. 3,  
7           ch. 92-153, Laws of Florida; amending s.  
8           581.185, F.S.; clarifying the scope of the  
9           Regulated Plant Index; abrogating the repeal of  
10          s. 581.186, F.S., relating to the Endangered  
11          Plant Advisory Council; amending s. 589.011,  
12          F.S.; authorizing the Division of Forestry to  
13          prohibit certain activities and providing  
14          penalties; authorizing leasing of property and  
15          structures to telecommunications providers;  
16          authorizing fees; creating s. 589.012, F.S.;  
17          creating the Friends of Florida State Forests  
18          Program; providing purpose; creating s.  
19          589.013, F.S.; authorizing a direct-support  
20          organization for the Friends of Florida State  
21          Forests Program; amending s. 590.01, F.S.;  
22          providing Division of Forestry responsibility  
23          for forest and wild land fire protection;  
24          amending s. 590.02, F.S.; clarifying that a  
25          specific appropriation is not needed to build  
26          certain structures; amending s. 590.026, F.S.;  
27          clarifying requirements for prescribed burning;  
28          amending s. 601.58, F.S.; revising procedures  
29          relating to approval of a citrus fruit dealer's  
30          license application; amending s. 601.60, F.S.;  
31          authorizing the department to issue a

1 provisional license; amending s. 601.67, F.S.;  
2 authorizing a fine against a person who  
3 operates as a citrus fruit dealer without a  
4 license; amending s. 602.065, F.S.; revising  
5 provisions relating to the deposit of certain  
6 funds for the eradication of citrus canker;  
7 amending s. 604.15, F.S.; revising definition  
8 of the term "agricultural products"; amending  
9 s. 500.03, F.S.; providing definitions relating  
10 to food products; reenacting s. 500.04(4) and  
11 (6), F.S., relating to prohibited acts, to  
12 incorporate amendments to ss. 500.12 and  
13 500.147, F.S., in references; amending s.  
14 500.11, F.S., relating to misbranded food;  
15 clarifying language; adding bottled water  
16 requirements; amending s. 500.12, F.S.,  
17 relating to food and building permits;  
18 including existing fees for permits for  
19 operating bottled water plants or packaged ice  
20 plants; providing requirements; amending s.  
21 500.121, F.S., relating to disciplinary  
22 procedures; providing for a fine for  
23 mislabeling; amending s. 500.147, F.S.;  
24 inserting inspection language for bottled water  
25 plants and packaged ice plants; authorizing a  
26 food safety inspection pilot program; providing  
27 criteria for the program; amending s. 500.171,  
28 F.S.; revising provisions authorizing an  
29 injunction; reenacting s. 500.177(1), F.S.;  
30 providing a penalty; amending s. 500.459, F.S.;  
31 providing definitions relating to water vending

1 machines and conforming a requirement to the  
2 State Plumbing Code; amending s. 500.511, F.S.,  
3 relating to fees, enforcement, and preemption;  
4 conforming cross references and deleting  
5 reference to certain water and ice operators  
6 and dealers; amending s. 526.3135, F.S.;  
7 clarifying compilation of a report; amending s.  
8 531.44, F.S.; establishing authority to set  
9 procedures for verifying acceptable pricing  
10 practices; amending s. 531.50, F.S.;  
11 authorizing penalties for violation of  
12 provisions relating to weights and measures;  
13 providing for deposit of funds; amending s.  
14 534.011, F.S.; providing for deposit of fees  
15 relating to the inspection and protection of  
16 livestock; amending s. 253.68, F.S.; deleting a  
17 requirement that precludes the Board of  
18 Trustees of the Internal Improvement Trust Fund  
19 from granting a lease for aquaculture  
20 activities in areas objected to by resolution  
21 of the county commission; repealing ss.  
22 500.453, 500.455, 500.457, and 500.509, F.S.,  
23 relating to bottled water and packaged ice  
24 regulation; providing for a state facility  
25 designation; providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Subsection (18) of section 581.011, Florida  
30 Statutes, is amended to read:

31 581.011 Definitions.--As used in this chapter:

1           (18) "Noxious weed" means any living stage, including,  
2 but not limited to, seeds and productive parts, of a parasitic  
3 or other plant of a kind, or subdivision of a kind, which may  
4 be a serious agricultural threat in Florida or have a negative  
5 impact on the plant species protected under s. 581.185.

6           Section 2. Paragraphs (b), (f), and (g) of subsection  
7 (4) of section 581.182, Florida Statutes, are amended to read:

8           581.182 Citrus plants and citrus plant products from  
9 other states, territories, or foreign countries.--

10          (4) In considering an application for a permit to  
11 introduce into this state from another state, territory, or  
12 foreign country any citrus plant or citrus plant product or  
13 propagation therefrom, the department shall consider the  
14 following guidelines:

15          (b) The clones introduced must:

16           1. Have been evaluated by the Citrus Budwood Technical  
17 Advisory ~~Registration~~ Committee as having desirable and  
18 superior characteristics to warrant testing under Florida  
19 field conditions prior to possible release as a new clone; or

20           2. Be of a type desirable:

21           a. For research; or

22           b. As a breeding stock to be used by the agricultural  
23 experiment stations in Florida.

24          (f) When tests are completed, new clones will be  
25 evaluated by the Citrus Budwood Technical Advisory  
26 ~~Registration~~ Committee. If the committee recommends the  
27 release and distribution of any clone to the industry, a  
28 portion of this clone will be validated and maintained in a  
29 Division of Plant Industry planting.

30          (g) The director is authorized to waive permit  
31 requirements for certain species of plants of the subfamilies

1 Aurantioideae, Rutoideae, or Toddalioideae which the Citrus  
2 Budwood Technical Advisory ~~Registration~~ Committee determines  
3 pose no threat of introducing into the state a citrus plant  
4 pest.

5 Section 3. Subsection (11) is added to section  
6 581.185, Florida Statutes, to read:

7 581.185 Preservation of native flora of Florida.--

8 (11) REGULATED PLANT INDEX.--The Regulated Plant Index  
9 is to be used solely to restrict unlawful harvesting of native  
10 flora without the authorization of the landowner. The  
11 Regulated Plant Index is not to be used to regulate  
12 construction or other land alteration activities on any  
13 property.

14 Section 4. Section 3 of chapter 92-153, Laws of  
15 Florida, is hereby repealed.

16 Section 5. Subsections (5) and (6) are added to  
17 section 589.011, Florida Statutes, to read:

18 589.011 Use of state forest lands; fees; rules.--

19 (5) The Division of Forestry may prohibit on state  
20 forest lands, or any lands leased by or otherwise assigned to  
21 the division for management purposes, activities that  
22 interfere with management objectives, create a nuisance, or  
23 pose a threat to public safety. Such prohibited activities  
24 must be posted with signs not more than 500 feet apart along,  
25 and at each corner of, the boundaries of the land. The signs  
26 must be placed along the boundary line of posted land in a  
27 manner and in such position as to be clearly noticeable from  
28 outside the boundary line. A person who violates the  
29 provisions of this subsection commits a misdemeanor of the  
30 second degree, punishable as provided in s. 775.082 or s.  
31 775.083.

1           (6) The Division of Forestry may enter into contracts  
2 or agreements, with or without competitive bidding or  
3 procurement, to make available, on a fair, reasonable, and  
4 nondiscriminatory basis, property and other structures under  
5 division control for the placement of new facilities by any  
6 wireless provider of mobile service as defined in 47 U.S.C. s.  
7 153(n) or 47 U.S.C. s. 332(d) or any telecommunications  
8 company as defined in s. 364.02 when it is determined to be  
9 practical and feasible to make such property or other  
10 structures available. The division may, without adopting a  
11 rule, charge a just, reasonable, and nondiscriminatory fee for  
12 the placement of the facilities, payable annually, based on  
13 the fair market value of space used by comparable  
14 communications facilities in the state. The division and a  
15 wireless provider or telecommunications company may negotiate  
16 the reduction or elimination of a fee in consideration of  
17 services provided to the division by the wireless provider or  
18 telecommunications company. All such fees collected by the  
19 division shall be deposited in the Incidental Trust Fund.

20           Section 6. Section 589.012, Florida Statutes, is  
21 created to read:

22           589.012 Friends of Florida State Forests Program.--The  
23 Friends of Florida State Forests Program is established within  
24 the Department of Agriculture and Consumer Services. Its  
25 purpose is to provide support and assistance for existing and  
26 future programs of the Division of Forestry. These programs  
27 must be consistent with the division's mission statement which  
28 is incorporated by reference. The purpose of the program is  
29 to:

30  
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1       (1) Conduct programs and activities related to  
2 environmental education, fire prevention, recreation, and  
3 forest management.

4       (2) Identify and pursue methods to provide resources  
5 and materials for these programs.

6       (3) Establish a statewide method to integrate these  
7 resources and materials.

8       Section 7. Section 589.013, Florida Statutes, is  
9 created to read:

10       589.013 Direct-support organization.--

11       (1) The Department of Agriculture and Consumer  
12 Services is authorized to create a direct-support organization  
13 to provide assistance to the Friends of Florida State Forests  
14 Program of the Division of Forestry.

15       (2) The direct-support organization shall be governed  
16 by the provisions of ss. 570.902 and 570.903 for the direct or  
17 indirect benefit of the Division of Forestry or individual  
18 units within the division.

19       Section 8. Section 590.01, Florida Statutes, is  
20 amended to read:

21       590.01 Protection of forests and wild land.--The  
22 Division of Forestry of the Department of Agriculture and  
23 Consumer Services has the primary responsibility for forest  
24 and wild land fire protection. The division shall provide  
25 leadership and direction in the evaluation, coordination, and  
26 monitoring of wildfire management and protection, which  
27 reduces threats to life and property, forest and wild land  
28 resources, and other related values at risk. The division  
29 shall promote natural resource management and wild land and  
30 forest fuel reduction through the use of prescribed fire. The  
31 division may designate and establish protection districts in

1 ~~areas declared to need additional protection. Whenever it~~  
2 ~~shall appear to the Division of Forestry of the Department of~~  
3 ~~Agriculture and Consumer Services, hereinafter called the~~  
4 ~~division, from investigation, hearing or otherwise that areas~~  
5 ~~in the state are in need of special protection from forest~~  
6 ~~fires, the said division may designate and establish a forest~~  
7 ~~protection district in such areas. The limits of each such~~  
8 ~~fire protection district shall be defined by the division, and~~  
9 ~~public notice of its establishment shall be published in some~~  
10 ~~one or more newspapers of general circulation in the region~~  
11 ~~affected, once each week for 3 successive weeks (three~~  
12 ~~insertions), and such additional publicity shall be given to~~  
13 ~~the establishment of said district as the division may deem~~  
14 ~~necessary.~~

15 Section 9. Subsection (4) of section 590.02, Florida  
16 Statutes, 1996 Supplement, is amended to read:

17 590.02 Division powers, authority, and duties; law  
18 enforcement; liability; building structures.--

19 (4) The department may build structures,  
20 notwithstanding chapters 216 and ~~chapter~~ 255, not to exceed a  
21 cost of \$50,000 per structure from existing resources on  
22 forest lands, federal excess property, and unneeded existing  
23 structures. These structures must meet all applicable building  
24 codes.

25 Section 10. Subsection (5) of section 590.026, Florida  
26 Statutes, is amended to read:

27 590.026 Prescribed burning; requirements; liability.--

28 (5) REQUIREMENTS; LIABILITY.--

29 (a) Prescribed burning conducted under the provisions  
30 of this section shall:

31



1           1. Be accomplished only when at least one certified  
2 prescribed burn manager is present on site while the burn is  
3 being conducted.

4           2. Require that a written prescription be prepared  
5 prior to receiving authorization to burn from the Division of  
6 Forestry.

7           3. Be considered in the public interest and shall not  
8 constitute a public or private nuisance when conducted  
9 pursuant to state air pollution statutes and rules applicable  
10 to prescribed burning.

11           4. Be considered a property right of the property  
12 owner if naturally occurring vegetative fuels are used and  
13 when conducted pursuant to the requirements of this section  
14 ~~subsection~~.

15           (b) No property owner or his agent, conducting a  
16 prescribed burn pursuant to the requirements of this section  
17 ~~subsection~~, shall be liable for damage or injury caused by  
18 fire or resulting smoke, unless negligence is proven.

19           Section 11. Subsection (1) of section 601.58, Florida  
20 Statutes, is amended to read:

21           601.58 Application approval or disapproval.--

22           (1) Each citrus fruit dealer's license application  
23 which is approved, or approved subject to conditions, shall be  
24 forwarded immediately to the Department of Agriculture and  
25 Consumer Services, ~~Division of Fruit and Vegetables, Bureau of~~  
26 ~~Citrus License and Bond~~, which shall, upon satisfaction of the  
27 stated conditions, if any are endorsed thereon, issue to the  
28 applicant an appropriate license as prescribed in s. 601.60.

29           Section 12. Subsection (1) of section 601.60, Florida  
30 Statutes, is amended to read:

31           601.60 Issuance of dealers' licenses.--

1           (1) Whenever an application bears the approved  
2 endorsement of the Department of Citrus and satisfactions of  
3 conditions of approval, if any, and the applicant has paid the  
4 prescribed fee, the Department of Agriculture and Consumer  
5 Services shall issue to such applicant a license, as approved  
6 by the Department of Citrus, which shall entitle the licensee  
7 to do business as a citrus fruit dealer during the effective  
8 term of such license in accordance with s. 601.55 or until  
9 such license may be suspended or revoked by the Department of  
10 Agriculture and Consumer Services in accordance with the  
11 provisions of law. The Department of Agriculture and Consumer  
12 Services may issue a provisional license for a period of no  
13 longer than 1 year to an applicant who is under investigation  
14 for an action that would constitute a violation of this  
15 chapter or has pending against such applicant an  
16 administrative or civil proceeding which alleges an action  
17 that would constitute a violation of this chapter. The  
18 department shall establish by rule requirements for renewal of  
19 a provisional license. When the investigation is complete or  
20 the pending proceeding has been disposed of, the department  
21 may issue a regular license under this section.

22           Section 13. Subsections (2) and (4) of section 601.67,  
23 Florida Statutes, are renumbered as subsections (3) and (5),  
24 respectively, subsection (3) is renumbered as subsection (4)  
25 and amended, and a new subsection (2) is added to said  
26 section, to read:

27           601.67 Disciplinary action by Department of  
28 Agriculture and Consumer Services against citrus fruit  
29 dealers.--

30           (2) The department may impose a fine not exceeding  
31 \$100,000 per violation against any person who operates as a

1 citrus fruit dealer without a current citrus fruit dealer  
2 license issued by the department pursuant to s. 601.60. In  
3 addition, the department may order such person to cease and  
4 desist operating as a citrus fruit dealer without a license.  
5 An administrative order entered by the department under this  
6 subsection may be enforced pursuant to s. 601.73.

7 ~~(4)(3)~~ Any fine imposed pursuant to subsection (1), or  
8 subsection (2), or subsection (3), when paid, shall be  
9 deposited by the Department of Agriculture and Consumer  
10 Services into its General Inspection Trust Fund.

11 Section 14. Subsection (9) of section 602.065, Florida  
12 Statutes, 1996 Supplement, is amended to read:

13 602.065 Citrus canker claims; procedures.--

14 (9) The Department of Legal Affairs shall provide  
15 representation and assistance to the Office of Citrus Canker  
16 Claims and may provide representation to any state agency  
17 affected by this act. The Department of Legal Affairs shall  
18 also take all necessary and appropriate action determined to  
19 be available to ensure that the Federal Government releases to  
20 the State of Florida any available funds which reimburse the  
21 state the Federal Government's share of the costs arising from  
22 the eradication of citrus canker. All funds received by the  
23 state from the Federal Government to reimburse the state for  
24 its share of the costs arising from the eradication of the  
25 citrus canker shall be deposited in the Plant Industry Trust  
26 Fund and shall be used only for the eradication of citrus  
27 canker. ~~divided and deposited in the following proportions:~~

28 ~~(a) Fifty percent into the General Revenue Fund; and~~

29 ~~(b) Fifty percent into the Citrus Advertising Trust~~

30 ~~Fund.~~

31

1           Section 15. Subsection (3) of section 604.15, Florida  
2 Statutes, is amended to read:

3           604.15 Dealers in agricultural products;  
4 definitions.--For the purpose of ss. 604.15-604.34, the  
5 following words and terms, when used, shall be construed to  
6 mean:

7           (3) "Agricultural products" means the natural products  
8 of the farm, nursery, grove, orchard, vineyard, garden, and  
9 apiary (raw or manufactured); livestock; milk and milk  
10 products; poultry and poultry products; the fruit of the saw  
11 palmetto (meaning the fruit of the Serenoa repens); and limes  
12 (meaning the fruit Citrus aurantifolia, variety Persian,  
13 Tahiti, Bearss, or Florida Key limes) produced in the state,  
14 except tobacco, tropical foliage, sugarcane, and citrus other  
15 than limes.

16           Section 16. Paragraphs (b) through (p) of subsection  
17 (1) of section 500.03, Florida Statutes, are redesignated as  
18 paragraphs (f) through (t), respectively, paragraphs (q), (r),  
19 and (s) are redesignated as paragraphs (x), (y), and (z),  
20 respectively, and new paragraphs (b), (c), (d), (e), (u), (v),  
21 and (w) are added to said subsection to read:

22           500.03 Definitions of terms; construction;  
23 applicability.--

24           (1) For the purpose of this chapter, the term:

25           (b) "Approved laboratory" or "certified laboratory"  
26 means a laboratory of the department, a commercial laboratory  
27 certified by the Department of Health, or a competent  
28 commercial laboratory certified by an agency of another state  
29 or the United States Environmental Protection Agency to  
30 perform analyses of drinking water in accordance with the  
31

1 water quality testing procedures adopted by the United States  
2 Environmental Protection Agency.

3 (c) "Approved source" as it relates to water means a  
4 source of water, whether it is a spring, artesian well,  
5 drilled well, municipal water supply, or any other source,  
6 that complies with the Federal Safe Drinking Water Act, Pub.  
7 L. No. 93-523, as amended.

8 (d) "Bottled water" means a beverage as described in  
9 Title 21 of the Code of Federal Regulations, Part 165 (1996),  
10 that is processed in compliance with Title 21 of the Code of  
11 Federal Regulations, Part 129 (1996).

12 (e) "Bottled water plant" means a food establishment  
13 in which bottled water is prepared for sale.

14 (u) "Natural water" means bottled spring water,  
15 artesian well water, or well water that has not been altered  
16 with water from another source or that has not been modified  
17 by mineral addition or deletion, except for alteration that is  
18 necessary to treat the water through ozonation or an  
19 equivalent disinfection and filtration process.

20 (v) "Packaged ice" means ice that is enclosed in a  
21 container and is offered for sale for human consumption or for  
22 other use by the consumer. The term does not include ice that  
23 is manufactured by any business licensed under chapter 381 or  
24 chapter 509.

25 (w) "Packaged ice plant" means a food establishment in  
26 which packaged ice is manufactured or processed.

27 Section 17. For the purpose of incorporating the  
28 amendments to sections 500.12 and 500.147, Florida Statutes,  
29 in references thereto, subsections (4) and (6) of section  
30 500.04, Florida Statutes, are reenacted to read:

31

1           500.04 Prohibited acts.--The following acts and the  
2 causing thereof within the state are prohibited:

3           (4) The sale, delivery for sale, holding for sale, or  
4 offering for sale of any article in violation of s. 500.12.

5           (6) The refusal to permit entry or inspection, or to  
6 permit the taking of a sample, as authorized by s. 500.147.

7           Section 18. Paragraph (g) of subsection (1) of section  
8 500.11, Florida Statutes, is amended, and paragraph (o) is  
9 added to said subsection, to read:

10           500.11 Food deemed misbranded.--

11           (1) A food is deemed to be misbranded:

12           (g) If it purports to be or is represented as a food  
13 for which a definition and standard of identity has been  
14 prescribed by statute or by rules as provided by s. 500.09,  
15 unless:

16           1. It conforms to such definition and standard; and

17           2. Its label bears the name of the food specified in  
18 the definition and standard and, insofar as may be required by  
19 such rules, the common names of optional ingredients (other  
20 than spices, flavoring, and coloring) present in such food.

21           (o) If it is bottled water and its label bears a  
22 corporate name, brand name, or trademark containing the word  
23 "spring," "springs," "well," "artesian well," "natural," or  
24 any derivative of those words without stating on the label the  
25 source of the water in typeface at least equal to the size of  
26 the typeface of the corporate name, brand name, or trademark,  
27 if the source of the water is different from the source  
28 indicated in the corporate name, brand name, or trademark.

29           Section 19. Paragraph (b) of subsection (1) of section  
30 500.12, Florida Statutes, is amended, paragraphs (c) and (d)  
31 of said subsection are redesignated as paragraphs (e) and (f),

1 respectively, and new paragraphs (c) and (d) are added to said  
2 subsection, to read:

3           500.12 Food permits; building permits.--

4           (1)

5           (b) An application for a food permit from the  
6 department must be accompanied by a fee in an amount  
7 determined by department rule, which may not exceed \$350,  
8 except that the fee accompanying an application for a food  
9 permit for operating a bottled water plant may not exceed  
10 \$1,000 and the fee accompanying an application for a food  
11 permit for operating a packaged ice plant may not exceed \$250.  
12 The fee for operating a bottled water plant or a packaged ice  
13 plant shall be set by rule of the department in an amount  
14 sufficient to meet, but not exceed, the total direct and  
15 indirect costs incurred by the department in carrying out its  
16 permitting, inspection, sampling, enforcement, and  
17 administrative responsibilities for those operations. Food  
18 permits must be renewed annually on or before January 1. If an  
19 application for renewal of a food permit is not received by  
20 the department within 30 days after its due date, a late fee,  
21 in an amount not exceeding \$100, must be paid in addition to  
22 the food permit fee before the department may issue the food  
23 permit. The moneys collected shall be deposited in the General  
24 Inspection Trust Fund.

25           (c) For bottled water plants:

26           1. Water that is transported into the state and that  
27 is bottled before or after importation into the state must be  
28 bottled, labeled, handled, and otherwise processed and sold  
29 according to the provisions of this chapter.

30           2. An application for a food permit for operating a  
31 bottled water plant must state the location of the bottled

1 water plant, the source of the water, and any other  
2 information considered necessary by the department to verify  
3 compliance with the safety, quality, and labeling requirements  
4 of this chapter.

5 (d) For packaged ice plants:

6 1. Packaged ice that is transported into the state and  
7 that is packaged before or after importation into the state  
8 must be packaged, labeled, handled, and otherwise processed  
9 and sold according to the provisions of this chapter.

10 2. An application for a food permit for operating a  
11 packaged ice plant must state the location of the packaged ice  
12 plant, the source of the water, the treatment the water  
13 received prior to being made into ice and packaged, and any  
14 other information considered necessary by the department to  
15 verify compliance with the safety, quality, and labeling  
16 requirements of this chapter.

17 (4)(a) The department may suspend immediately upon  
18 notice any permit issued under this section if it finds that  
19 any of the conditions of the permit have been violated. The  
20 holder of a permit so suspended may at any time apply for the  
21 reinstatement of such permit; and the department shall,  
22 immediately after prompt hearing and an inspection of the  
23 establishment, reinstate such permit if the department finds  
24 that adequate measures have been taken to comply with and  
25 maintain the conditions of the permit, as originally issued,  
26 or as amended.

27 (b) The department shall have access to any food  
28 establishment for the purpose of ascertaining compliance with  
29 this section. Denial of access for such inspection is a ground  
30 for suspending the permit until access to the food  
31 establishment is freely given by the operator.



1           Section 20. Section 500.121, Florida Statutes, is  
2 amended to read:  
3           500.121 Disciplinary procedures.--  
4           (1) In addition to the suspension procedures provided  
5 in s. 500.12, the department may impose a fine not exceeding  
6 \$5,000 against any retail food store or food establishment  
7 that has violated this chapter, which fine, when imposed and  
8 paid, shall be deposited by the department into the General  
9 Inspection Trust Fund. The department may revoke or suspend  
10 the permit of any such retail food store or food establishment  
11 if it is satisfied that the retail food store or food  
12 establishment has:  
13           (a) Violated any of the provisions of this chapter.  
14           (b) Violated or aided or abetted in the violation of  
15 any law of this state governing or applicable to retail food  
16 stores or food establishments or any lawful rules of the  
17 department.  
18           (c) Knowingly committed, or been a party to, any  
19 material fraud, misrepresentation, conspiracy, collusion,  
20 trick, scheme, or device whereby any other person, lawfully  
21 relying upon the word, representation, or conduct of a retail  
22 food store or food establishment, acts to his injury or  
23 damage.  
24           (d) Committed any act or conduct of the same or  
25 different character than that enumerated which constitutes  
26 fraudulent or dishonest dealing.  
27           (2) Any manufacturer, processor, packer, or  
28 distributor who misrepresents or mislabels the country of  
29 origin of any food may, in addition to any penalty provided in  
30 this chapter, be subject to an additional administrative fine  
31 of up to \$10,000 per violation.

1       ~~(3)(2)~~ Any administrative order made and entered by  
2 the department imposing a fine pursuant to this section shall  
3 specify the amount of the fine and the time limit for payment  
4 thereof, not exceeding 15 days, and, upon failure of the  
5 permit holder to pay the fine within that time, the permit is  
6 subject to suspension.

7       ~~(4)(3)~~ In any court proceeding relating to  
8 administrative orders, the burden of proving violations of  
9 this chapter and of upholding administrative orders is with  
10 the department.

11       Section 21. Subsection (3) of section 500.147, Florida  
12 Statutes, is renumbered as subsection (5), and new subsections  
13 (3), (4), and (6) are added to said section to read:

14       500.147 Inspection of food establishments and  
15 vehicles; food safety pilot program.--

16       (3) For bottled water plants:

17       (a) Bottled water must be from an approved source.  
18 Bottled water must be processed in conformance with Title 21  
19 of the Code of Federal Regulations, Part 129 (1996), and must  
20 conform to Title 21 of the Code of Federal Regulations, Part  
21 165 (1996). A person operating a bottled water plant shall be  
22 responsible for all water sampling and analyses required by  
23 this chapter.

24       (b) All microbiological, chemical, physical, or  
25 radiological testing and analyses of source water and finished  
26 product required by this chapter must be performed by an  
27 approved laboratory. Records of the sampling and analyses  
28 must be maintained on file at the plant for not less than 2  
29 years and made available to the department upon request.

30       (4) For packaged ice plants:

31

1       (a) Water used in packaged ice must be from an  
2 approved source. The finished product must meet the primary  
3 water quality standards established under the Federal Safe  
4 Drinking Water Act, Pub. L. No. 93-523, as amended. A person  
5 operating a packaged ice plant shall be responsible for all  
6 water sampling and analyses required by this chapter.

7       (b) All packaged ice plants must submit to an approved  
8 laboratory, once every 3 months, a sample of each type of  
9 finished product for microbiological analysis. The quarterly  
10 laboratory analysis must include testing for fecal and total  
11 coliform organisms. Total coliforms must not be greater than  
12 2.2 organisms/100 ml. using the most probable number method or  
13 not greater than 1 organism/100 ml. using the membrane  
14 filtration method. Packaged ice must have no fecal  
15 coliform-positive samples. All microbiological, chemical,  
16 physical, or radiological analyses required by this chapter  
17 must be performed by an approved laboratory.

18       (c) All records of sampling and analyses of source  
19 water and finished product must be maintained by the plant for  
20 a period of not less than 2 years and made available to the  
21 department upon request.

22       (6) The department is authorized to initiate a food  
23 safety pilot program establishing a special, documented food  
24 inspection program based on sound science principles of the  
25 Hazard Analysis Critical Control Point (HACCP) system and  
26 involving cooperative compliance efforts of both the  
27 department and the food establishment to assure consumers a  
28 safe, wholesome, and properly labeled food supply. A food  
29 establishment shall be eligible for such a pilot program only  
30 if program criteria are met. Criteria used to establish this  
31

1 special program include, but are not limited to, the  
2 following:

3 (a) A good inspection history over a specified time  
4 period.

5 (b) Certified food manager activities demonstrated to  
6 be effective in assessing food safety practices and correcting  
7 deficiencies at the food establishment.

8 (c) An active food training program in place for  
9 employees.

10 (d) "Self inspection" records of the food  
11 establishment made available for review by the department.

12 (e) Written sanitation standard operation procedures  
13 in place and the food establishment's verification records  
14 made available for review by the department.

15 (f) Freezer/refrigeration units and hot-cold  
16 temperature logs or recording charts made available for review  
17 by the department.

18 (g) Records of corrective action to resolve food  
19 safety deficiencies made available for review by the  
20 department.

21 Section 22. Section 500.171, Florida Statutes, is  
22 amended to read:

23 500.171 Injunction to restrain violation.--In addition  
24 to the remedies provided in this chapter and notwithstanding  
25 the existence of any adequate remedy at law, the department  
26 may bring an action to enjoin the violation or threatened  
27 violation of any provision of this chapter, or rule adopted  
28 under this chapter, in the circuit court of the county in  
29 which the violation occurred or is about to occur. Upon the  
30 department's presentation of competent and substantial  
31 evidence to the court of the violation or threatened

1 violation, the court shall immediately issue the temporary or  
2 permanent injunction sought by the department. The injunction  
3 shall be issued without bond. A single act in violation of  
4 any provision of this chapter shall be sufficient to authorize  
5 the issuance of an injunction.~~In addition to the remedies~~  
6 ~~herein provided, the department may apply to a circuit court~~  
7 ~~for, and such court shall have jurisdiction upon hearing and~~  
8 ~~for cause shown to grant, a temporary or permanent injunction~~  
9 ~~restraining any person from violating any provision of s.~~  
10 ~~500.04, irrespective of whether or not there exists an~~  
11 ~~adequate remedy at law.~~

12 Section 23. Subsection (1) of section 500.177, Florida  
13 Statutes, is reenacted to read:

14 500.177 Penalty for violation of s. 500.04;  
15 dissemination of false advertisement.--

16 (1) Any person who violates any provision of s. 500.04  
17 is guilty of a misdemeanor of the second degree, punishable as  
18 provided in s. 775.082 or s. 775.083; but, if the violation is  
19 committed after a conviction of such person under this section  
20 has become final, such person is guilty of a misdemeanor of  
21 the first degree, punishable as provided in s. 775.082 or s.  
22 775.083.

23 Section 24. Subsections (3) and (5) of section  
24 500.459, Florida Statutes, are renumbered as subsections (4)  
25 and (6), respectively, subsections (2), (4), and (6) are  
26 renumbered and amended, and a new subsection (2) is added to  
27 said section, to read:

28 500.459 Water vending machines.--

29 (2) DEFINITIONS.--

30 (a) "Sanitized" means treated in conformity with Title  
31 21 of the Code of Federal Regulations, Section 110.3 (1996).

1           (b) "Vended water" means water dispensed by means of a  
2 water vending machine.

3           (c) "Water vending machine" means a self-service  
4 device that, upon insertion of a coin or token or upon receipt  
5 of payment by other means, dispenses a serving of water into a  
6 container.

7           (d) "Water vending machine operator" means a person  
8 who owns, leases, or manages, or is otherwise responsible for,  
9 the operation of a water vending machine.

10           ~~(3)~~~~(2)~~ PERMITTING REQUIREMENTS.--

11           (a) Each person or public body that establishes,  
12 maintains, or operates any water vending machine in the state  
13 must secure an operating permit from the department each year.

14           (b) An application for an operating permit must be  
15 made in writing to the department on forms provided by the  
16 department and must be accompanied by a fee as provided in  
17 subsection~~(4)~~~~(3)~~. The application must state the location of  
18 each water vending machine, the source of the water to be  
19 vended, the treatment the water will receive prior to being  
20 vended, and any other information considered necessary by the  
21 department.

22           ~~(5)~~~~(4)~~ OPERATING STANDARDS.--

23           (a) A water vending machine operator must obtain a  
24 permit prior to operating any water vending machine.

25           (b) Each water vending machine must be located indoors  
26 or otherwise protected against tampering and vandalism and  
27 must be located in an area that can be maintained in a clean  
28 condition and in a manner that avoids insect and rodent  
29 harborage. The floor upon which the water vending machine is  
30 located should be smooth and of cleanable construction.

31

- 1           (c) The source of water supply must be an approved  
2 public water system.
- 3           (d) Each water vending machine must have a ~~an approved~~  
4 backflow prevention device that conforms with s. 553.06 and an  
5 adequate system for collecting and handling dripping,  
6 spillage, and overflow of water.
- 7           (e) All parts and surfaces of a water vending machine  
8 with which water comes into contact must be made of nontoxic,  
9 corrosion-resistant, nonabsorbent material capable of  
10 withstanding repeated cleaning and sanitizing treatments.
- 11           (f) Each water vending machine must be maintained in a  
12 clean and sanitary condition, free from rust, dirt, and  
13 vermin.
- 14           (g) The vended water must receive treatment and  
15 postdisinfection according to approved methods established by  
16 rule of the department. Activated carbon, if used, must comply  
17 with specifications for granular activated carbon used in  
18 water treatment applications as established by rule of the  
19 department.
- 20           (h) The vended water may not be described as "purified  
21 water" unless the water conforms to the definition of that  
22 term. Further, a water vending machine operator must not claim  
23 that the vended water has medicinal or health-giving  
24 properties and must not describe any vended water as "spring  
25 water."
- 26           (i) The operator shall place on each water vending  
27 machine, in a position clearly visible to customers, the  
28 following information: the name and address of the operator;  
29 the operating permit number; the fact that the water is  
30 obtained from a public water supply; the method of treatment  
31 used; the method of postdisinfection used; and a local or

1 toll-free telephone number that may be called for obtaining  
2 further information, reporting problems, or making complaints.

3 ~~(7)(6)~~ PENALTIES.--

4 (a) The department may deny, suspend, or revoke a  
5 permit if it finds that there has been a substantial failure  
6 to comply with this section or rules adopted under this  
7 section.

8 (b) Any person who operates a water vending machine  
9 without first obtaining an operating permit as required by  
10 subsection ~~(3)(2)~~, who operates a water vending machine in  
11 violation of an order to discontinue operation, or who  
12 maintains or operates a water vending machine after revocation  
13 of the operating permit is guilty of a misdemeanor of the  
14 second degree, punishable as provided in s. 775.082 or s.  
15 775.083.

16 Section 25. Section 500.511, Florida Statutes, is  
17 amended to read:

18 500.511 Fees; enforcement; preemption.--

19 (1) FEES.--All fees collected under s. 500.459 ~~ss.~~  
20 ~~500.453-500.511~~ shall be deposited into the General Inspection  
21 Trust Fund and shall be accounted for separately and used for  
22 the sole purpose of administering the provisions of such ~~each~~  
23 section ~~requiring a fee~~.

24 (2) ENFORCEMENT AND PENALTIES.--In addition to the  
25 provisions contained in s. 500.459 ~~ss. 500.453-500.511~~, the  
26 department may enforce s. 500.459 ~~ss. 500.453-500.511~~ in the  
27 manner provided in s. 500.121. Any person who violates a  
28 provision of s. 500.459 ~~ss. 500.453-500.511~~ or any rule  
29 adopted under such section ~~sections~~ shall be punished as  
30 provided in such sections. However, criminal penalties may not  
31 be imposed against any person who violates a rule.



1           (3) PREEMPTION OF AUTHORITY TO REGULATE.--Regulation  
2 of bottled water plants, ~~bottled water plant operators, water~~  
3 ~~dealers,~~ water vending machines, water vending machine  
4 operators, and packaged ice plants, ~~packaged ice plant~~  
5 ~~operators, and packaged ice dealers~~ is preempted by the state.  
6 No county or municipality may adopt or enforce any ordinance  
7 that regulates the licensure or operation of bottled water  
8 plants, water vending machines, or packaged ice plants, unless  
9 it is determined that unique conditions exist within the  
10 county which require the county to regulate such entities in  
11 order to protect the public health. This subsection does not  
12 prohibit a county or municipality from requiring an  
13 occupational license tax pursuant to chapter 205.

14           Section 26. Section 526.3135, Florida Statutes, is  
15 amended to read:

16           526.3135 Reports by the Department of Agriculture and  
17 Consumer Services ~~Division of Consumer Services~~.--The  
18 Department of Agriculture and Consumer Services ~~Division of~~  
19 ~~Consumer Services~~ is directed to compile a report pursuant to  
20 s. 570.544 of all complaints received by the Department of  
21 Agriculture and Consumer Services pursuant to this act. Such  
22 report shall contain at least the information required by s.  
23 570.544(6)(b)2.-4. and shall be presented to the Speaker of  
24 the House of Representatives and the President of the Senate  
25 no later than January 1 of each year.

26           Section 27. Section 531.44, Florida Statutes, is  
27 amended to read:

28           531.44 Misrepresentation of pricing; verification  
29 procedures.--

30           (1) No person shall misrepresent the price of any  
31 commodity or service sold or offered, exposed, or advertised

1 for sale by weight, measure, or count, nor represent the price  
2 in any manner calculated or tending to mislead or in any way  
3 deceive a person. Whenever an advertised, posted, or labeled  
4 price per unit of weight, measure, or count includes a  
5 fraction of a cent, all elements of a fraction shall be  
6 prominently displayed, and the numeral or numerals expressing  
7 the fraction shall be immediately adjacent to, of the same  
8 general design and style as, and at least one-half the height  
9 and width of, the numerals representing the whole cent.

10 (2) The department may adopt, by rule, sampling  
11 procedures for determining acceptable pricing practices.  
12 Sampling procedures for determining acceptable pricing  
13 practices may include, but are not limited to, those  
14 procedures adopted by the National Conference on Weights and  
15 Measures.

16 Section 28. Section 531.50, Florida Statutes, is  
17 amended to read:

18 531.50 Administrative fine, ~~Offenses and penalties,~~  
19 and offenses.--

20 (1) The department may enter an order imposing one or  
21 more of the following penalties against any person who  
22 violates any provision of this chapter or rule adopted under  
23 this chapter or impedes, obstructs, or hinders the department  
24 in the performance of its duties in connection with the  
25 provisions of this chapter:

26 (a) Issuance of a warning letter or notice.

27 (b) Imposition of an administrative fine of:

28 1. Up to \$1,000 for a first violation;

29 2. Up to \$2,500 for a second violation within 2 years  
30 after the first violation; or

31

1           3. Up to \$5,000 for a third violation within 2 years  
2 after the first violation.

3  
4 When imposing any fine under this section, the department  
5 shall consider the degree and extent of potential harm caused  
6 by the violation, the amount of money by which the violator  
7 benefited from noncompliance, whether the violation was  
8 committed willfully, and the compliance record of the  
9 violator. All fines, monetary penalties, and costs received by  
10 the department shall be deposited in the General Inspection  
11 Trust Fund for the purpose of administering the provisions of  
12 this chapter.

13           ~~(2)(1)~~ Any person who willfully and knowingly violates  
14 ~~the provisions enumerated in subsection (2) or any provision~~  
15 ~~of this chapter or rule rules adopted by the department~~  
16 ~~pursuant to this chapter commits thereto for which a specific~~  
17 ~~penalty has not been prescribed shall be guilty of a~~  
18 ~~misdemeanor of the second degree, punishable as provided in s.~~  
19 ~~775.082 or s. 775.083. Upon a subsequent conviction, a person~~  
20 ~~commits he shall be guilty of a misdemeanor of the first~~  
21 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

22           ~~(3)(2)~~ No person shall:

23           (a) Use, or have in possession for use, in commerce  
24 any weight or measure not approved or corrected as provided in  
25 s. 531.41(12).

26           (b) Use or dispose of any rejected or condemned weight  
27 or measure without specific authorization from the rejecting  
28 authority.

29           (c) Remove any mark of rejection from a rejected  
30 weight or measure without specific authorization from the  
31 rejecting authority.

1           Section 29. Section 534.011, Florida Statutes, is  
2 amended to read:

3           534.011 Inspection and protection of livestock;  
4 jurisdiction of Department of Agriculture and Consumer  
5 Services.--The inspection and protection of livestock in the  
6 state are hereby placed under the jurisdiction of the  
7 Department of Agriculture and Consumer Services, herein called  
8 the "department." Fees collected pursuant to this chapter  
9 shall be deposited in the General Inspection Trust Fund.

10           Section 30. Subsection (1) of section 253.68, Florida  
11 Statutes, 1996 Supplement, is amended to read:

12           253.68 Authority to lease submerged land and water  
13 column.--

14           (1) To the extent that it is not contrary to the  
15 public interest, and subject to limitations contained in ss.  
16 253.67-253.75, the board of trustees may lease submerged lands  
17 to which it has title for the conduct of aquaculture  
18 activities and grant exclusive use of the bottom and the water  
19 column to the extent required by such activities. Such leases  
20 may authorize use of the submerged land and water column for  
21 either commercial or experimental purposes. ~~However no lease~~  
22 ~~shall be granted by the board when there is filed with it a~~  
23 ~~resolution of objection adopted by a majority of the county~~  
24 ~~commission of a county within whose boundaries, if the same~~  
25 ~~were extended to the extent of the interest of the state, the~~  
26 ~~proposed leased area would lie. Said resolution shall be~~  
27 ~~filed with the board of trustees within 30 days of the date of~~  
28 ~~the first publication of notice as required by s. 253.70.~~  
29 Prior to the granting of any such leases, the board shall  
30 establish and publish a list of guidelines to be followed when  
31 considering applications for lease. Such guidelines shall be

1 designed to protect the public's interest in submerged lands  
2 and the publicly owned water column.

3           Section 31. Section 500.453, Florida Statutes, as  
4 created by chapter 94-180, Laws of Florida, and sections  
5 500.455, 500.457, and 500.509, Florida Statutes, as amended by  
6 chapter 94-180, Laws of Florida, are hereby repealed.

7           Section 32. The Cracker Country facility located at  
8 the Florida State Fairgrounds is hereby designated as the  
9 "Doyle E. Carlton, Jr., Cracker Country." The Florida State  
10 Fair Authority is authorized to erect appropriate markers  
11 bearing the designation made by this section.

12           Section 33. This act shall take effect upon becoming a  
13 law.

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